(Testimony of David D. Moosman.)

of the Department of Agriculture to inspect all shipments of eggs to the supply ships at the pier?

Mr. Pratt: I object to that as repetition.

Mr. Faulkner: Your Honor, I asked him that about certificate 498, and then I asked a simple question to try to cover eight or ten. Mr. Pratt objects. I said those answers relate to 498. Now I am going to ask him about 499.

The Court: You may answer.

Mr. Faulkner: Unless Mr. Pratt wants to withdraw his objection. [3444]

Mr. Pratt: The only purpose of my objection—I do not want to delay—the only thing I want to bring out is that these inspections were in fact made at 324 Townsend Street.

Mr. Faulkner: But they were not, Mr. Pratt, made at 324 Townsend Street. [3444-a]

The Court: So far as the evidence discloses thus far, these records disclose that they were. There is no other evidence.

Mr. Faulkner: I beg your Honor's pardon. The evidence shows thus far that the place indicated on the certificate, 324 Townsend Street, is in the bracket where the address is.

The Court: Yes, and following that you said that the practice was to have them inspected at the dock.

Mr. Faulkner: At the dock.

The Court: These records here disclose 324 Townsend Street.

(Testimony of David D. Moosman.)

Mr. Faulkner: If your Honor please, there is only one exception in the memory of the witness.

The Court: That is on the drydock.

Mr. Faulkner: That is when he inspected when the ship was at Mare Island.

The Court: Yes, the drydock.

Mr. Faulkner: And this ship was not at Mare Island.

The Court: I am not indicating. We are developing here these records and what they diclose, are we not?

Mr. Faulkner: No, we are developing where the eggs were inspected.

The Court: Q. Where were they inspected?

The Witness: A. 324 Townsend Street is what the record shows. [3445]

Mr. Faulkner: Q. Where were they inspected, Mr. Moosman?

A. My memory does not recall, but so far as—the certificate, which is a record of where they were inspected, they were inspected at 324 Townsend Street.

Q. Isn't it a fact, Mr. Moosman, when you were preparing certificates at that time you were putting the address of the seller as the place where the inspection was at times when you knew the inspection was at the pier? In other words, that address, 324 Townsend Street, related to Martins Reed Company, isn't that right?

A. They are the sellers.

(Testimony of David D. Moosman.)

Q. Yes, and you put the address 324 Townsend Street in that certifeate, did you not?

A. That is the place where the eggs evidently were looked at, according to the record.

Q. Is it not a fact, Mr. Moosman, in the preparation of your records at or about that time that you inserted in the place on your certificate of where the eggs were inspected addresses which you know you did not inspect eggs at?

A. Yes, there is a record of that.

Q. Isn't that correct?

A. That is correct.

Q. So that the address at the place where it says "Place of Inspection," was not always used by you to designate where you inspected the eggs, isn't that correct?

A. There is an exception there.

Q. Isn't that correct?

A. That is correct.

Q. Now, at the time in June—June 2, 4, 5 and 6—it was [3446] the then practice to inspect all eggs for the supply ships of the United States Navy at the pier, was it not?

Mr. Pratt: I object to that. That has already been testified to.

The Court: I will allow him to answer.

Mr. Faulkner: Q. Isn't that correct?

A. Will you repeat that?

(Question read.)

A. The general practice, but there was an exception made. I think it was possibly due to the

(Testimony of David D. Moosman.)

quantity of eggs. There was several deliveries besides this, as for convenience, if the Navy requested, in order to make the loading as it should be, an exception.

Mr. Faulkner: Q. Have you a distinct recollection as you sit there as a witness that the United States Navy made any exception in respect to the inspection of eggs on the dock in respect to the USS. Arctic in June 1940?

A. I do not recall the times when they requested that exception.

Q. You do recall, however, that the exception related to the repair of a ship at Mare Island, do you not?

A. Yes, there was——

Q. I think I asked you about Certificate 3309, Mr. Moosman, and I think you have already testified that you inspected 300 cases of eggs covered by that certificate on June 4, 1940?

A. Yes, sir. [3447]

Q. And the quality of eggs were——

A. U. S. Extras, Large, Retail Grade.

Q. And they were for the USS. Arctic?

A. They were.

Q. That is for the United States Navy?

A. They were.

Q. Now, I will ask you, if I asked you the same question that I asked this morning in respect to Certificates 498-E and 499, if your answers would be the same?

A. They would be the same.

(Testimony of David D. Moosman.)

Mr. Pratt: I would like to know what "the same" means.

Mr. Faulkner: All right, I won't do it, your Honor.

Mr. Pratt: I would like to know where, according to his records, the inspection was made. It is rather abstruse now.

The Court: That is a matter entirely for the Jury from the evidence adduced. They are the sole judges of the facts. Let us proceed, gentlemen.

Mr. Faulkner: If your Honor please, I offer Certificate 3309-E in evidence as Defendants' exhibit next in order.

The Court: Let it be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit DB.)

Mr. Faulkner: Q. Now, Mr. Moosman, have you a certificate there dated June 5, 1940, No. 3311?

A. Yes, sir.

Q. Covering 308 cases of eggs?

A. Yes.

Q. Dated June 5? A. June 5.

Q. Is that paper that you hold in your hand, which I have described in my preceding question, an official copy of an [3448] egg grading certificate of the United States Department of Agriculture?

A. Yes, sir.

Q. Did you make the inspection covered by that certificate? A. Yes, sir.

Q. What was the date of the inspection?

A. June 5.

(Testimony of David D. Moosman.)

Q. What quantity of eggs were covered?

A. 308 cases.

Q. What was the quality of the eggs?

A. U. S. Extras, Large, Retail Grade.

Q. For whom were the eggs?

A. For the U. S. Navy, USS. Arctic.

Q. Mr. Moosman, I asked you certain questions heretofore in respect to the place where the eggs covered by that certificate were inspected or, rather, I asked you some questions heretofore as to the place where eggs were inspected that were covered by Certificates Nos. 498 and 499. If I repeated those questions would you give the same answers?

A. I would.

Mr. Faulkner: I offer that certificate in evidence, your Honor.

(The document was thereupon received in evidence and marked Defendants' Exhibit DC.)

Mr. Faulkner: Q. Have you an egg grading certificate brought here in response to the subpoena, No. 3322, covering 298 cases of eggs dated June 6, 1940? A. Yes sir.

Q. And is that paper that you hold in your hand there, Mr. Moosman, an official copy of an eggs grading certificate of [3449] the United States Department of Agriculture? A. Yes sir.

Q. Did you make the inspection covered by that certificate? A. Yes, sir.

Q. When was that made, Mr. Moosman?

A. June 6.

Q. June 6? A. 1940.

(Testimony of David D. Moosman.)

Q. What quantity of eggs were covered?

A. 298 cases.

Q. What quality of eggs?

A. U. S. Extras, Large Retail Grade.

Q. For whom were the eggs?

A. For the U. S. Navy, the supply ship Arctic.

Q. If I asked you the same questions in respect to the place where you have made the inspection of the eggs covered in that certificate which I asked in respect to Certificates 498-E and 499-E, would your answers be the same? A. They would.

Mr. Faulkner: I offer that certificate in evidence, your Honor.

The Court: It may be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit DD.)

Mr. Faulkner: Q. Now, in connection with the inspections, Mr. Moosman, of the eggs covered in these five certificates, I will ask you if regardless of the place that you inspected them, if you placed a Department of Agriculture stamp on the eggs as part of your inspection? [3450]

A. Will you repeat that?

The Court: Read the question, Mr. Reporter.

(Question read.)

The Witness: A. I can't tell that, Mr. Faulkner.

Mr. Faulkner: Q. What?

A. I am not sure because sometimes—most generally I had someone assist in stamping. Is that the idea?

(Testimony of David D. Moosman.)

Q. No, I do not mean who physically wielded the stamp, Mr. Moosman?

A. Yes, the eggs would be stamped.

Q. The eggs would be stamped?

A. That is right.

Q. Regardless of where the eggs were inspected?

A. Regardless of where the eggs were inspected they would be stamped.

Q. Having in mind these five certificates and the quality indicated, what would the stamp say on it that you placed?

A. The stamp would say "U. S. Extras, inspected by the Department of Agriculture," and also San Francisco and the date.

Q. And the word "Extras" would be part of the stamp that you placed on them?

A. That would be part of the stamp.

The Court: It is time to take a recess.

(Recess.)

Mr. Faulkner: Q. Mr. Moosman, I direct your attention to these five egg grading certificates, CZ, DA, DB, DC and DD, and calling your attention to the fact, Mr. Moosman, that in each one of these certificates there is a particular [3451] quantity of eggs represented, to illustrate, 700 cases—on one 400, 300, 308 and 298—I will ask you, Mr. Moosman, if each certificate represents an inspection which was one continuous operation?

A. I don't think so. If it were one continuous operation there would have been a total number of cases.

(Testimony of David D. Moosman.)

Q. I mean each certificate?

A. Within a day.

Q. Each certificate represented a continuous operation?

A. For that particular lot.

Q. In other words, Mr. Moosman, these aggregate something a little over two thousand cases, these certificates here. Well, I will withdraw that. In other words, Certificate 498-E represents an inspection of 700 cases? A. 700 cases.

Q. Were the 700 cases graded and stamped on that day regardless of the place as one continuous operation? A. That is right.

Q. And then on the 400 cases of eggs represented in Certificate 499-E, they were inspected, graded and stamped all as one operation? A. Yes.

Q. And on the day the certificate bears, is that right? A. That is right.

Q. And the eggs represented in Certificate No. 3309-E, representing 300 cases, were all inspected, stamped and graded as one continuous operation on the date this certificate bears, is that correct?

A. Yes, sir.

Q. Certificate No. 3311 for 308 cases, providing I am reading [3452] it right, 308 cases, dated June 5, 1940—they were inspected, graded and stamped with the U. S. Extras on it all as one continuous operation and on the day your certificate bears, is that correct? A. Yes, sir.

Q. And Certificate No. 3322 for 298 cases, were all inspected, graded and stamped as one continuous

(Testimony of David D. Moosman.)

operation on the date the certificate bears, is that correct? A. Yes, sir.

Q. Now, Mr. Moosman, have you produced an egg grading certificate dated October 9, 1939, No. 6086, covering 2,000 cases of eggs? I will ask you if this certificate is an official copy of an egg grading certificate, part of the files of the United States Department of Agriculture?

A. Yes, sir.

Mr. Pratt: May I ask the date, please, Mr. Faulkner?

Mr. Faulkner: Yes, the date of this is October 9, 1939.

Q. Now, in respect to that certificate, Mr. Moosman, I call your attention to the certificate and I will hold the certificate that has similar printing on it and I will ask you how many cases were involved in that certificates?

A. Two thousand cases.

Q. Did you grade the eggs covered by that certificate? A. I did.

Q. And what was the date?

A. October 9.

Q. What year? A. 1939.

Q. And for whom were the eggs?

A. The U. S. Navy Supply Ship "Bridge."

Q. At what pier? A. Pier 9. [3453]

Q. How many cases of eggs?

A. Two thousand.

Q. What quality did you grade those eggs?

A. U. S. Extras, Large, Retail Grade.

(Testimony of David D. Moosman.)

Q. Were those eggs all inspected as one continuous transaction on that day——

A. According to the records, yes, sir.

Q. Would that be in accordance with your recollection?

A. That would be in accordance with my practice.

Q. And your recollection?

A. I don't recall this particular time.

Q. I notice that you have an extension on that certificate of the number of hours involved. How many?

A. Well, there is ten and a half hours. That time there involved was—we have a regular commercial fee and we transferred that into a regular fee.

Q. Mr. Moosman, having in mind the quantity of eggs involved, the ship for whom it was destined, and the pier designated there, I will ask you where you inspected those eggs?

A. I don't know.

Q. Where in the space on that certificate where it says——

A. "Where graded——".

Q. Where graded—what address have you?

A. It is 129 Davis Street.

Q. Now, you know you never graded and inspected any eggs to fill that order at that address, don't you? A. Yes, sir. [3454]

Q. You know that positively?

A. That is positive.

(Testimony of David D. Moosman.)

Q. In connection with the actual place of the inspection of these eggs I will ask you if in the month of October, 1939, it was not the practice of your as a Department of Agriculture inspector to grade, inspect and stamp all cases for the United States Navy supply ships at the pier?

A. It was the general practice, yes, sir.

Q. And at the time that you made that inspection of two thousand cases of eggs on day you noted on your certificate that the ship was at Pier 9, did you not?

A. Yes, sir.

Q. And at the time the certificate was prepared you knew the pier——

A. Yes sir.

Q. In relation to that ship.

I offer that certificate in evidence.

The Court: It may be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit DE.)

Mr. Faulkner: Q. Mr. Moosman, I have asked you under this subpoena if you would produce any and all certificates between June 1, 1939, and August 1, 1940, covering the inspection of eggs in quantities of five hundred cases or more in which eggs were graded as Specials for delivery to the United States Navy. Have you produced any records——

A. We have no records of the Navy ever making a contract for Specials, U. S. Grade Specials. [3455]

Mr. Faulkner: That is all.

(Testimony of David D. Moosman.)

Cross-Examination

Mr. Pratt: Q. Mr. Moosman, in regard to this first certificate, it reads, "Market San Francisco, California, dated June 3, 1940, Hour 12 M., to U. S. Navy Department Address 310 Federal Office Building, Shipper or Seller, Martens Read & Co., address 129 Davis Street, Receiver or Buyer, USS. Arctic, Address, Pier 46, San Francisco, Fee, 4 hours, total 4 hours, Official Grader, D. Moosman, Room 3, Ferry Building, San Francisco; Description of Eggs Processed," and there is a star referring to below: "As stated by applicant or contractor." That refers to the word "Processed," does it?

A. That is the description.

Q. "Where graded, 324 Townsend; Kind of package, 30 dozen cases; Total cases, 700; Number of cases examined, 35." That is five percent of the number of cases, and you actually examined 35 cases out of these 700; is that your understanding?

A. That is right.

Q. And the notation "Where Graded, 324 Townsend Street," that is the notation you made at the time as the place where the grading was done, is that right? A. That is right.

Q. Now, was 324 Townsend Street at that time the place of business of Nye & Nissen?

A. Yes, sir.

Q. And then, "Package Remarks—new, standard, good"—that mean the cases, I suppose?

A. That is right, and the [3456] fillers and flats.

(Testimony of David D. Moosman.)

Q. "Fillers new, white pulp, and flats, cups new; grading fee based on time. Packages were stamped with grade and date of grading." The name of the shipper or seller appears as Martens Read & Co.? A. Yes, sir.

Q. Who are Martens Read & Co.?

A. A wholesale dealer in San Francisco. They are still in existence.

Q. And their place of business was at 129 Davis Street? A. Yes, sir.

Q. And all of these certificates that you have identified have the name of Martens Read & Co. as the sellers? A. Yes, sir.

Q. And had you inspected other eggs for Martens Read & Co.?

Mr. Faulkner: We object to that as not proper cross-examination. I simply had the witness identify some certificates, bring them in and state what they are, official records.

Mr. Pratt: It is all part of the same character of transaction, if the Court please.

Mr. Faulkner: It is an isolated transaction to identify an official record to determine that he made the inspection.

The Court: Read the question.

(Question read.)

The Court: When?

Mr. Pratt: During the period in the 30's or 40's—1939 and 1940 or previously.

Mr. Faulkner: We make the objection, your Honor. [3457]

(Testimony of David D. Moosman.)

The Court: I will allow the question.

Mr. Faulkner: Exception.

The Witness: Yes sir, they had—the contracts of the Government—the Navy is the only eggs. I inspected for Martens Read.

Mr. Pratt: Q. The only eggs you inspected for Martens Read for Navy delivery, is that right?

A. They were for Navy delivery.

Q. Were those inspections all made at the plant of Nye & Nissen?

Mr. Faulkner: We object to that.

Mr. Pratt: I withdraw that.

Q. Were inspections ever made at the place of business of Martens Read & Co., 129 Davis Street?

A. No sir.

Q. What is that? Have you ever been to that place? A. Yes, sir.

Q. What is that?

Mr. Faulkner: We object to that, your Honor, as not proper cross-examination.

The Court: I will allow it.

Mr. Faulkner: Exception.

The Witness: A. They had honey.

Mr. Pratt: Q. No, what is this office or this place of business at 129 Davis Street?

A. That is their place of business. [3458]

Q. Have they a warehouse there?

A. They have a warehouse for honey and nuts.

Mr. Faulkner: Your Honor, I bring the witness in to identify some records. That is all I have done. Whether Martens Read has a warehouse on

(Testimony of David D. Moosman.)

Davis Street or a home on Pacific Avenue is not relevant.

The Court: The ultimate fact is whether there was an inspection there.

Mr. Pratt: That is right.

The Court: If he knows he may answer. Ask him the question directly.

The Witness: An inspection was never made at Martens Read.

Mr. Pratt: Q. In the second of these certificates, which is No. 499, that has the same date as the first one. Both of them are June 3, 1940, and this one, the second one, 499, is for 400 cases of eggs and the time of grading is 3 p.m. The first one of 700 cases was at 12 noon.

A. That is right.

Q. So it was a separate operation entirely?

A. It was a separate operation.

Q. The first and the second were separate operations. On that one it is also noted the inspection was made or the eggs were graded at 324 Townsend Street? A. Yes, sir.

Q. And that entry was put on there at the time that the work was done, is that right?

A. It was the practice, [3459] yes, sir.

Q. And the third of these certificates, 3309, showed that the inspection or grading of 300 cases of eggs was made on June 4 at 3 p.m., again at 324 Townsend Street? A. Yes, sir.

Q. Now, the next one on June 5, at 5 M.—does that mean five p. m.?

(Testimony of David D. Moosman.)

A. That would be five p.m.

Q. It would not be five a.m., would it?

A. No.

Q. And there were 308 cases graded again at 324 Townsend Street and the next of these, the fourth one, 3322, shows that on June 6 there were 298 cases graded again at 324 Townsend Street. With reference to these eggs that were graded in June, June 3, 4, 5 and 6 of 1940, an aggregate of 2,006 cases of eggs, do you know whether those relate to the same purchase order?

A. No sir. The purchase orders at that time were sometimes let on bids for maybe five or six hundred cases at one price and another one at another price, and it depended on the price as to what the purchase order would be.

Q. And you have no record here of the purchase order? A. No.

Q. In grading eggs at the plant of Nye & Nissen in this first instance covered by your Certificate 498——

Mr. Faulkner: I object to the form of the question. I think we went over it clearly and everyone in the courtroom knows what he said. Mr. Pratt prefaces his question, "When you were grading the eggs at the plant of Nye & Nissen." [3460]

Mr. Pratt: I will withdraw the question to save argument.

Mr. Faulkner: That is fine.

Mr. Pratt: Q. How did you do this grading?

A. Ordinarily—you mean the procedure?

(Testimony of David D. Moosman.)

Q. Yes.

A. Ordinarily the eggs are placed thirty cases on a tray when they are in the plant.

Mr. Faulkner: Just a moment. We object to this, in the plant. He asked him how he graded eggs for the United States Navy.

Mr. Pratt: I am asking him about grading eggs at the plant of Nye & Nissen.

Mr. Faulkner: I object to that as improper cross examination, unless it is confined to grading these particular eggs, because Mr. Moosman has graded eggs there for a great many years with respect to every type of shipment, and our direct examination related solely to those transactions. The witness is available to Counsel for the Government to put on as part of their own case or as part of their rebuttal case.

The Court: Read the question, Mr. Reporter.

(Question read.)

Mr. Pratt: For the Navy Department.

The Court: You may answer.

The Witness: The procedure in grading eggs is to draw your sample first——

Mr. Pratt: Q. Go ahead.

A. And the sample—the eggs [3461] are usually loaded onto trays, 30 cases to a tray, and from the trays would be at random a sample of eggs drawn.

Q. Who loads the eggs on the trays?

A. Those eggs would be loaded by whoever was the truck driver. I don't know just how or who would load the eggs. As they unloaded them they

(Testimony of David D. Moosman.)

possibly transported eggs from Petaluma, and if they were unloaded at their place they would be placed on——

Mr. Faulkner: We submit, your Honor, the witness was asked how he inspected eggs during this period for the Navy and he has testified heretofore that they were inspected on the pier. Now he is trying to describe an operation in the plant, and your Honor asked him to describe an operation——

The Court: Q. Were you there in the plant at this time?

A. According to the certificate this inspection was made at the plant.

The Court: Proceed.

The Witness: And if the eggs were looked at at the plant, the procedure was to draw a random sample throughout the lot.

Mr. Pratt: Q. You spoke of their being thirty cases of eggs on a flat?

A. That is usually the manner in which they are unloaded.

Q. Were those eggs indicated to you by someone there at Nye & Nissen as being eggs for you to grade?

Mr. Faulkner: Just a moment, if the Court please. [3462] Mr. Pratt is trying to have the witness describe an operation in respect to egg grading at the plant of Nye & Nissen without any testimony that he graded those eggs at the plant of Nye & Nissen, and I submit, your Honor, the form of the question——

(Testimony of David D. Moosman.)

The Court: The form of the question is objectionable. What was the practice there with relation to the inspection of eggs? If he can't identify the cases themselves——

Mr. Pratt: He has already testified that he graded these eggs according to his record at the plant of Nye & Nissen.

Mr. Faulkner: He did not testify to that.

Mr. Pratt: I think it is competent for me to ask him to describe the manner in which they were graded, and it is perfectly proper for me to ask leading questions in that connection.

Mr. Faulkner: I do not object to a leading question. If Mr. Moosman will testify on his cross examination that he graded those eggs in the plant of Nye & Nissen I have no objection. But he has never said that in this court room.

Mr. Pratt: I think he has said that.

The Court: The records disclose that they were. He has no independent recollection of these particular eggs. That is the testimony.

Mr. Pratt: That is right.

Mr. Faulkner: That is right. [3463]

Mr. Pratt: I want to know then——

The Court: You may ask him what the practice was.

Mr. Faulkner: For the filling of a Navy order, your Honor.

The Court: Yes, Navy order.

Mr. Faulkner: At this time.

(Testimony of David D. Moosman.)

The Court: I understand he inspected only Navy orders.

Mr. Faulkner: Oh, no.

The Court: Or rather, these eggs that were going out in these various shipments.

Mr. Faulkner: No, your Honor.

The Court: Q. Is that the fact?

A. Not only those I inspected commercial inspections.

Q. Was anyone with you, other inspectors?

A. Not very often.

Q. Indicate what the practice was with relation to the inspection of these eggs.

A. The practice was to draw a random sample from the lot.

Mr. Pratt: Q. From the lot of thirty cases?

A. Supposing I had 600 cases. That would be twenty flats.

Q. The whole—in this first instance, for example, of 700 cases which you were to inspect, they were all there within your vision?

Mr. Faulkner: That is my objection, your Honor. The witness has said over and over again he does not remember anything in his mind of the inspection of those eggs. Now, [3464] then, if they were on the pier they would not be on flats. If they were in Nye & Nissen's plant they may have been on flats. Mr. Pratt won't accord with the Court's ruling, I say very respectfully.

Mr. Pratt: I am trying to accord with the Court's ruling and get the practice.

(Testimony of David D. Moosman.)

The Court: Very well, reframe your question.

Mr. Pratt: Q. I want to know in connection with your practice in grading eggs for the Navy at the plant of Ny[illegible] & Nissen whether the quantity of eggs which you were called upon to grade were there at one time within your vision?

A. Yes, sir.

Q. And then——

A. Eggs covered by the certificate would be there.

Q. And were they all on flats?

A. The whole quantity of cases.

Q. To be graded at that time?

A. That was generally the case, but I would not be positive that that was always the case because sometimes they did have some eggs——

Q. After you graded——

Mr. Faulkner: Why don't you let him finish?

Mr. Pratt: Q. Did you finish your answer, Mr. Moosman?

A. It wasn't always the case that the eggs were on flats. It was generally the case.

Q. Generally the case?

A. Supposing they didn't [3465] have enough flats—and I think it was true they wouldn't have enough flats sometimes to take care of all the eggs they would bring in.

Q. You did your candling in a candling booth, I take it, did you not?

A. Most generally the candling was done outside just back of an office where there was a shade

(Testimony of David D. Moosman.)

toward the light and I would make the inspection on the floor where the eggs were.

Q. Right where the eggs were located, is that right? A. Yes, right on the floor.

Q. And then you went into the candling booth——

A. No, not generally. There was very few exceptions at this particular place when the eggs were candled within a candling booth.

Q. In this particular instance when grading for the Navy you graded at a separate place. You candled the eggs in a separate place and not in a candling booth which was maintained by the company, is that right?

A. I am not saying this particular case, because I do not remember this particular case. I am stating generally that that is where I made the inspection.

Q. And you had a candling light in a station so that you would be able to properly inspect the eggs? A. Yes, sir.

Q. And was that some enclosure where you did this candling? A. No. [3466]

Q. Wasn't there something to obscure the light?

A. Well, they had a sky light, and when we came in—and then in facing the light, the front of the building, the north side of the building was open. Facing it on the south side we had a screen up that would prevent the direct light coming in. And then the skylight—they had heavy canvas curtains over the top, and those curtains would be

(Testimony of David D. Moosman.)

drawn up so it wouldn't be total dark, but it would be good—with strong light that we used it would be a good light.

Q. After you candled these thirty-five cases——

Mr. Faulkner: Now, he has not said he candled——

Mr. Pratt: Q. Calling your attention now, particularly to your Certificate No. 498——

Mr. Faulkner: He has not given a single word of testimony about candling these thirty-five cases, your Honor.

Mr. Pratt: Q. How many cases did you candle in connection with those seven hundred?

A. It states there were thirty-five cases examined. They would be all candled.

Q. It was your practice, was it not, in grading eggs there at the plant of Nye & Nissen on a Navy order after you had candled five per cent of the number of cases involved to have a stamp affixed either by yourself or with the assistance of some of the employees to the whole number of cases in the lot, is that right? A. That is right. [3467]

Q. And after the cases were thus stamped then your job was through for that occasion, was it not?

A. That is right.

Q. And did you know when these cases were then delivered to the waterfront, to Pier 46 in this case?

Mr. Faulkner: If your Honor please, over and over again Mr. Pratt tries to tie the witness into this transaction in the plant of Nye & Nissen as a

(Testimony of David. D. Moosman.)

delivery to the waterfront. Your Honor has told him to give the practice and the method that he followed at that time.

Mr. Pratt: That is what I am asking for here.

Mr. Faulkner: You haven't any evidence that those eggs were ever candled in the plant of Nye & Nissen. Now, we have more evidence on that subject, but you haven't any in this record yet.

The Court: I suggest that you reframe your question. Assuming that these eggs in question were candled at the Nye & Nissen plant at the address indicated there, what would the practice be? What was done?

Mr. Pratt: Q. Assuming that those eggs were candled there in the plant of Nye & Nissen as indicated by your certificate, what was the practice in regard to your activities from that point on in regard to those cases of eggs?

A. After the eggs were stamped?

Q. Yes.

A. I most generally had nothing more to do with them. [3468]

Q. So that when and by whom they were delivered at Pier 46 or any place else you do not know? A. I would not.

Q. So far as these other certificates are concerned is your answer just the same?

A. Yes, sir.

Q. I am referring to the certificates relating to the inspection of eggs on the third, fourth, fifth and sixth of June, 1940? A. Yes, sir.

(Testimony of David D. Moosman.)

Q. Now, Mr. Moosman, I direct your attention to Exhibit DE, which is your grading certificate No. 6086, dated October 9, 1939; hour 12:00 o'clock, market San Francisco, California, date October 9, 1939, to U. S. Navy Department, address 310 Federal Office Building, Shipper or seller, Martens Read & Co., 129 Davis Street, receiver or buyer, U. S. Bridge—" that is the USS Bridge, I suppose, the steamship? A. That is right.

Q. "Address Pier 9," and down below, "Description of eggs, Processed. Where graded, 129 Davis." Now, do you know where those eggs were graded?

A. I do not. They were not graded at 129 Davis Street.

Q. Do you know whether they were graded at 324 Townsend Street? A. I do not.

Q. Do you know whether the grading was done in connection with Nye & Nissen or their place of business in any way? A. I do not.

Q. Do you know whether the cases of eggs, 2,000 cases, were [3469] graded at Pier 9?

A. I do not recollect whether they were graded——

Q. You do not recollect?

A. And the certificate is in error on that point.

Q. The certificate is in error on that point because obviously you did not grade them at 129 Davis Street? A. That is right.

Q. It would have been impossible, would it not?

A. That is right.

(Testimony of David D. Moosman.)

Q. And you have no recollection——

A. I have no recollection.

Q. And are you able to correct this obvious error? A. No sir.

Q. From reading your certificate have you any opinion as to what that error consisted of as to the place of grading?

A. I doubt if I would have made an inspection of that many cases of eggs at Nye & Nissen's. I am inclined to believe that that inspection was made at the dock.

Q. At the dock, at the pier?

A. At the pier.

Q. Do you know whether at that time or about that time, namely, October 9, 1939, you made inspections of large quantities or of considerable quantities of eggs at the plant of Nye & Nissen?

A. I have no memory.

Q. You have no memory on that subject. Did you make any inspections at that time at Nye & Nissen's plant, so far as you know?

A. Commercial inspections—I think we have records of commercial inspections, but I have no record—I did check through and we have no record of a Government order being inspected at their plant.

Q. Mr. Moosman, you are acquainted with this firm of Martens Read & Co.? A. Yes sir.

Q. Did you know anything of the relations between Martens Read & Co. and Nye & Nissen with relation to this or the other Navy order?

(Testimony of David D. Moosman.)

A. I do not.

Mr. Faulkner: We object to that is improper cross examination.

The Court: He did not.

Mr. Faulkner: It is the question, not the answer.

Mr. Pratt: Q. Previous to the time of these inspections you had made numerous inspections of eggs at the plant of Nye & Nissen, had you?

Mr. Faulkner: We submit that that is not proper cross examination.

The Court: Read the question.

(Question read.)

The Court: You may answer.

Mr. Faulkner: Exception.

The Witness: A. Yes.

Mr. Pratt: Q. Had you made an inspection of eggs destined for the Navy in connection with Nye & Nissen previous to that time? [3471]

Mr. Faulkner: We object to that as not proper cross examination.

The Court: Indicate the purpose of the testimony.

Mr. Pratt: The purpose is to show that there were other investigations or inspections of eggs previous to that time which have a relationship to the inspections made generally for the Navy.

The Court: What connection is there, if any?

Mr. Pratt: The relation which they have to the present issues of the case is that it will show a state

(Testimony of David D. Moosman.)

of fact which will be relevant to the issues and to the allegations of the indictment.

The Court: Unless you indicate them now I will sustain the objection.

Mr. Pratt: Q. In regard to the stamping of eggs which you inspected at the plant of Nye & Nissen, you have stated that stamps were actually affixed in your presence—I assume perhaps by employees of Nye & Nissen? A. Yes, sir.

Q. Do you know whether the stamps thus affixed were the same stamps which you used for stamping eggs?

Mr. Faulkner: I object to that as not proper cross examination, not tied into the authenticity of these documents.

The Court: If he knows he may answer.

Mr. Faulkner: Exception.

(Question read.) [3472]

Mr. Faulkner: In other words, my point, your Honor, is, is he relating to these eggs? That is my point. If he is relating to these eggs I have no objection.

Mr. Pratt: Q. Let me ask the question this way: Within your knowledge was any other stamp used in stamping eggs other than your own official stamp?

Mr. Faulkner: We object to the form of that question unless he identifies it as the eggs that the witness identified as being covered by these certificates. These are the eggs involved in this case.

(Testimony of David D. Moosman.)

The Court: I suggest that you reframe your question.

Mr. Pratt: Q. Do you know of any stamp being affixed to eggs which you had graded or in connection with eggs which you had graded which was not your own official Department of Agriculture stamp? A. I do not.

Mr. Faulkner: The same objection, if the Court please.

The Court: The question and answer may stand. The objection is overruled.

Mr. Faulkner: Exception.

Mr. Pratt: Q. During what period of time did you grade eggs at the plant of Nye & Nissen?

Mr. Faulkner: I object to that as not proper cross examination.

Mr. Pratt: For the Navy.

The Court: You may answer. The objection is overruled. [3473]

Mr. Faulkner: Exception.

The Witness: A. I do not recall the year. It was in the early 30's.

Mr. Pratt: Q. Do you have any recollection of the grading of eggs in the early 30's for the Navy?

Mr. Faulkner: Just a moment. We object to any recollection or any subject matter——

The Court: We are going afield. There is nothing here that we are concerned about in the early 30's that I am aware of at the present time.

Mr. Pratt: I would like to show a course of

(Testimony of David D. Moosman.)

conduct between the early 30's and continuing up to the time of the dates mentioned in the indictment.

Mr. Faulkner: Your Honor, I put a witness on for the Department of Agriculture to identify a record and state what that record contained and what he did with reference to it and that is all, and Mr. Moosman——

The Court: I will sustain the objection. Let us proceed.

Mr. Pratt: That is all.

Mr. Faulkner: I just have one question.

Redirect Examination

Mr. Faulkner: Q. Mr. Moosman, you bought another certificate there. Is that an official copy?

A. That is an official copy.

Q. Of an egg grading certificate dated February 14, 1942, and [3474] you brought that in response to a subpoena? A. That is right.

Q. You did not make the inspection covered by that? A. No, I did not.

Mr. Pratt: May I see it?

Mr. Faulkner: May it be marked for identification? That is all, Mr. Moosman.

(The document was thereupon marked Defendants' Exhibit DF for Identification.)

The Court: The jurors may be excused. Return at two o'clock.

(An adjournment was thereupon taken until two o'clock p.m.) [3475]

(Afternoon Session, March 26, 1946, 2:00 p.m.)

The Court: Waive the roll call, stipulating and agreeing all the jurors are present and seated in the box. You may proceed.

Mr. Faulkner: Call Mrs. Weinstein.

DORA WEINSTEIN,

called as a witness for Defendants; sworn.

The Clerk: Will you state your name?

A. Dora Weinstein.

Direct Examination

Mr. Faulkner: Q. Mrs. Weinstein, in the year 1943, in the month of November of that year, were you in the employ of the firm of Nye & Nissen in Los Angeles? A. Yes.

Q. In the course of that employment did you do typing of messages, and letters, and things of that kind in the month of November? A. Yes.

Mr. Pratt: What year, please?

Mr. Faulkner: 1943.

Q. Did you know a man named Frank Gartenberg? A. Yes.

Q. What position did he held in November, 1943, with the firm of Nye & Nissen?

A. He was the manager of the Los Angeles Branch.

Q. Did you, in the year 1943, in the month of November, have a teletype machine in the office in which you worked? A. Yes. [3476]

Q. Who operated the machine? A. I did.

(Testimony of Dora Weinstein.)

Q. Do you recall an incident in connection with the business of the firm of Nye & Nissen relating to a shipment of eggs on a vessel called the William Clark in November, 1943? A. Yes.

Mr. Faulkner: You have seen this before, Mr. Pratt.

Q. I show you a counterpart of a teletype message purporting to have commenced in the city of Los Angeles and to have gone to Nye & Nissen in San Francisco, and ask you to look at it, please. When you have finished, Mrs. Weinstein, let me know. Have you read that? A. I did.

Q. Mrs. Weinstein, do you recall, after looking at this teletype message, whether you transmitted the teletype, the message represented in that paper?

A. I do recall typing that.

Q. Pardon me? A. I do recall typing that.

Q. Typing it on the teletype.

A. On the teletype.

Q. Do you recall who prepared the message that was teletyped at that time?

A. Mr. Gartenberg dictated that, he dictated that message as I was at the teletype.

Q. In this mesage there is a reference to a message received from Peter Rice. Do you recall any message received from Peter Rice?

A. Yes. Peter Rice telephoned a message to Mr. Gartenberg. I took the message during Mr. Gartenberg's absence. He was out of the office at the time.

Q. Then what did you do?

(Testimony of Dora Weinstein.)

A. When Mr Gartenberg returned [3477] I gave him Mr. Rice's message.

Q. When Mr. Gartenberg returned do you recall whom he was with?

A. He was with Mr. Abell, a United States Department of Agriculture representative in Los Angeles.

Q. After you gave Mr. Gartenberg the message which you had received over the telephone, what did Mr. Gartenberg do with reference to any teletype message that was sent to San Francisco?

A. Well, he came over to my desk and asked me to get San Francisco on the teletype.

Q. How do you do that?

A. Well, we turn on the switch and the operator makes it known that she is on the line, and then I request the San Francisco station and then Mr. Gartenberg proceeded to dictate, and as he spoke I typed.

Mr. Faulkner: May I have that answer read, your Honor?

The Court: Read the answer, Mr. Reporter.

(The record was read.)

Mr. Faulkner: Q. Is this the message that you typed on the teletype? A. That's right.

Mr. Faulkner: I offer this in evidence, your Honor.

Mr. Pratt: I object to the first part of this message, and perhaps all, as the message of Peter Rice.

Mr. Faulkner: That is your interpretation of it.

(Testimony of Dora Weinstein.)

Mr. Pratt: If the Court please, Peter Rice's message——

Mr. Faulkner: If you have——

Mr. Pratt: Let me please complete my objection. [3478]

Mr. Faulkner: I object to counsel making a speech. If he has a legal objection to the admissibility of the document I request the court that the court ask him to state it.

Mr. Pratt: I was starting to state it when I was interrupted. I object to this because obviously the first part of this message embodies the message and is the message of Peter Rice, and the best evidence, of course, is the statement of Peter Rice in regard to this matter, so that he may be subject to cross examination by the Government.

Mr. Faulkner: Well, if the Court please, Mr. Gartenberg, called as a witness by the Government, was shown this message, said he had nothing to do with the transmittal of the message. Now, this lady has testified that this very message was dictated to her with Mr. Gartenberg standing there while she transmitted that to San Francisco.

Mr. Pratt: Nevertheless, it is the message of Peter Rice.

The Court: Overruled.

(The document was marked Defendants' Exhibit DG in evidence.)

Mr. Faulkner: Q. Now, in connection with the transaction, Mrs. Weinstein, of the "William Clark" in November of 1943, I show you a type-

(Testimony of Dora Weinstein.)

written paper, U. S. Exhibit 137, and ask you if you will read that, please.

The Court: The witness is looking at another document.

Mr. Faulkner: That document is a document that Mr. Gartenberg testified here——

The Court: She is looking at another document.

Mr. Faulkner: There are two pages.

The Court: Very well.

Mr. Faulkner: It is a short memorandum, a piece of paper.

Q. Have you read that, Mrs. Weinstein?

A. Yes.

Q. Did you ever typewrite that document, or the original of it?

A. I never saw that and never typed it.

Q. Now, I call your attention to the fact that this document is dated November 3, 1943, and I will ask you, Mrs. Weinstein——

The document referred to, your Honor, is U. S. Exhibit 137——

Q. (Continuing): ——I will ask you if on or about November 5, 1943, you type this message which I hand you?

A. Yes, I did; I typed that one.

Q. Whose signature is on the bottom of that page? A. Frank's.

Q. Who is Frank? A. Frank Gartenberg.

Q. Do you recognize his handwriting?

A. Oh, yes.

(Testimony of Dora Weinstein.)

Mr. Faulkner: I offer this document in evidence, ~~your Honor.~~

The Court: Admitted and marked.

(The document was marked Defendants' Exhibit DH in evidence.)

Mr. Faulkner: Now, Mrs. Weinstein, do you recall whether or not Mr. Gartenberg left the employ of the firm of Nye & Nissen sometime possibly about the 13th of November, 1943? A. I do.

Q. I show you this document and ask if you have seen or examined [3480] that document or a counterpart of that document on or about the date that it bears. A. Yes.

Mr. Faulkner: I offer this in evidence, if the Court please.

The Court: Admitted and marked.

(The document was marked Defendants' Exhibit DI in evidence.)

Mr. Faulkner: I would like to read these three exhibits to the jury. The teletype message referred to is Defendants' Exhibit DG and has in pencil, "5 mins 11/4/43 2:10". Then it says:

"This is SF 395

P

This is LA 434

SF Pls Ance Agn This is SF 395

The Following Is Peter Rice Message

Attny Genls Office Requires Recandling Of Eggs Under Section 1106,2 Believe U Shud Advise Pres Lines We R Doing This At Their Responsibility.

(Testimony of Dora Weinstein.)

We Have 24 Hrs Within Which To Recandle Eggs And Throw Out Inedibles Wirth Wud Like To Help But His Hands Are Tied. Believe Simplest Way Is To Recandle Here. You Shud Offer To Allow Pres Lines To Do Their Own Recandling On Their Eggs, We To Do It For Them As A Courtesy For Them.

Plse Advise If We Shud Recad Recandle Or Fight Proceeding. End.

U Arrange Recandle And Only Throw Out Whatever Is Absolutely [3481] Necesary. We Cannot Fight With The Amer Pres Lines As They R Good Customers Of Ours. Even Tho Not Our Fault. Therefore See That Loss Is As Small As Possible As We Will Have To Stand For Same. End.

Just See.

OK—End.

Return The Good Eggs To San Francisco. End.

OK End.

OK End."

Exhibit Defendants' DH is on the stationery of Nye and Nissen, Inc. "Memorandum. Date Nov. 5, 1943.

"To A. Moncharsh
From Frank
Dear Abe:

Candled the 40 Cs 20 doz picked up from the steamer Wm. S. Clark, and have taken out 4 cs. & 26½ doz rots and spots. We have sent them over to the city dump as per Mr. Wirth's orders, and he

(Testimony of Dora Weinstein.)

followed the truck to make sure they were destroyed. The good eggs we are shipping to you Via Caf Freight Line.

Frank."

The next is:

"November 13, 1943

Mr. Frank Gartenberg
2103 Holmby Avenue
W. Los Angeles 25, California

Dear Frank: [3482]

"I am enclosing herewith your check covering your pay for this week.

"Confirming our telephone conversation of today, please be advised that effective as of this date your services will no longer be required.

"Yours very truly,
NYE AND NISSEN, INC.
By A. Moncharsh.

AM/i
End.

Registered. Return Receipt Requested. CC to Dora Weinstein, ~~% N & N L.A.~~"

Q. Now, Mrs. Weinstein, directing your attention to the date of this letter, do you recall Mr. Gartenberg leaving the employ of Nye and Nissen at or about the time of that letter? A. Yes.

Q. Do you recall, Mrs. Weinstein, whether you saw him in the office of Nye and Nissen subsequent to the time you received the carbon copy of the

(Testimony of Dora Weinstein.)

letter that I have just read to the jury, namely, Exhibit DI?

A. The date of that letter was what day?

Q. November 13th. A. What was the day?

Q. November 13, 1943.

A. What day was that?

Q. I don't know. I think it was a Saturday.

A. Yes, I think so, too. Well, I saw him the next time Tuesday, it was Tuesday or Wednesday about—of the following week.

Q. After he left, after you got a copy of that letter did you [3483] examine the files kept in the office of Nye & Nissen in the office of Mr. Gartenberg; did you examine the filing cabinets?

A. Yes, we did.

Q. What did you find there?

A. It was empty.

Q. After you found the filing cabinet—was that in an office that was used exclusively by Mr. Gartenberg? A. That's right.

Q. Did he have the key to that filing cabinet?

A. He was the only one who had the key.

Q. How did you get into it?

A. We broke open the lock, we forced it open in order to get the files, and we found there was nothing there, it was all empty.

Q. Later that week did you see Mr. Gartenberg in the office of Nye & Nissen in Los Angeles?

A. Yes. He came in, I don't recall whether it was Tuesday following or Wednesday following, and looked through the files in the outer office, the

(Testimony of Dora Weinstein.)

room in which I was seated. I offered to help him. I asked him what he was looking for and he said I shouldn't worry, that he was interested in taking correspondence containing his name, anything with his name belonged to him.

Q. Now, after that incident which occurred within a day or two after he left the employ of Nye & Nissen, did you thereafter see Mr. Gartenberg in the office of Nye & Nissen in the year 1944?

A. Yes, he came into our place around February.

Q. Did you talk to him then? A. Yes.

Q. Did you recall any specific discussion at that time? [3484] A. Just the conversation——

Mr. Pratt: I object to any conversation between this witness and Mr. Gartenberg in February of 1944.

Mr. Faulkner: He said he never came back to the office after he left. All right. At all events—I will withdraw that.

Q. You had a conversation with him?

A. I did.

Q. Did you see him in the office of Nye & Nissen after February, 1944, in that year in Los Angeles?

A. About six months after that he came by again.

Q. On both of those occasions in 1944 did he walk around the premises? A. Why, yes.

Q. Did you see him in the year 1945 in the office of Nye & Nissen in Los Angeles?

A. In November. It was around between the 15th and 20th of November.

(Testimony of Dora Weinstein.)

Q. Of last year? A. That's right.

Q. Did you talk to him then? A. I did.

Q. Did he walk around the premises?

A. Why, yes.

Mr. Faulkner: I think that is all, Mrs. Weinstein.

Cross Examination

Mr. Pratt: Q. Mrs. Weistein, you are Mr. Moncharsh's sister, are you not? A. Yes, sir.

Q. Now, on the 13th of November, 1943, apparently the letter which you identified as having received a copy was written—that's right, is it not?

A. Yes. [3485]

Q. I think you indicated or intimated that you thought that was Saturday, did you?

A. I asked what day it was.

Q. What?

A. I asked what day that that copy reached my desk.

Q. You said you thought it was Saturday, didn't you? A. Yes.

Q. Where was Mr. Gartenberg then?

A. He was not in the office.

Q. Where was he? A. I don't know.

Q. You don't remember that he was at some resort, he wasn't very well and had gone to a resort somewhere near Los Angeles?

A. Mr. Gartenberg was—he went by our house on Saturday between five and six of that afternoon, I couldn't say where he was during the early part of the day.

(Testimony of Dora Weinstein.)

Q. Hadn't you reached him by telephone on that day at some place outside of Los Angeles?

A. On Saturday?

Q. Yes. A. No.

Q. Or on the day before?

A. I don't recall.

Q. Is there a place called Murrieta Hot Springs, or some such name?

A. He used to go to that place from time to time, but I don't remember whether he was there at that time.

Q. Don't you recall that Mr. Moncharsh tried to reach him over the telephone there at your Los Angeles office, either on Friday or Saturday?

A. I don't remember.

Q. Don't you recall, just to refresh your recollection, don't you remember that Mr. Moncharsh called the office and you told Mr. Moncharsh that Mr. Gartenberg was out at this Murrieta [3486] Hot Springs?

A. I recall that conversation. It took place the early part of the week.

Q. You mean of that week of which Saturday was the 13th?

A. The early part of the week, that's right.

Q. When did Mr. Gartenberg leave the office to go over to Murrieta Hot Springs?

A. I don't know.

Q. Well, was it early that week?

A. I don't know when he left and I don't know when he returned.

(Testimony of Dora Weinstein.)

Q. Well, you do know he had been away for some days, did you not?

A. From time to time he took frequent visits, but I don't know whether he went to Murrieta that week, I don't know.

Q. You don't recall. A. That's right.

Q. Don't you recall that he was not in the office for several days that week?

A. I believe he was away.

Q. You don't recall that Mr. Moncharsh called from San Francisco over the telephone and couldn't reach him at the office?

A. Well, I do not know.

Q. And didn't you tell your brother that Mr. Gartenberg was away and had gone to Murrieta Hot Springs, don't you recall that?

A. Oh, yes, but I don't——

Q. You recall that?

A. I recall Mr. Gartenberg having been to Murrieta Hot Springs from time to time over a period of weeks, and San Francisco would call, trying to get him on the line, and Mr. Moncharsh then would have been told that Mr. Gartenberg is at Murrieta and can be reached there. [3487]

Q. Don't you recall at this particular time that such—— A. No.

Q. (Continuing): ——an episode occurred?

A. No, I don't seem to recall whether it happened that particular few days, during that particular time.

Q. This was just about ten days after these eggs

(Testimony of Dora Weinstein.)

on the steamship Clark were rejected or this matter came up concerning them so the whole matter was fresh in your mind at that time, was it not? That is, concerning the steamship Clark and the affair about the eggs?

A. When the matter came up it was fresh in my mind.

Q. And it was fresh in your mind at the time of this letter of the 13th of November, was it not?

A. What matter are you referring to?

Q. The matter of the eggs on the steamship Clark. A. That's right.

Q. All fresh in your mind, but you don't remember of your brother calling just a day or two before the 13th of November and failing to find Mr. Gartenberg at the office, you don't recall that?

A. No, I do not.

Q. Have you any recollection of any conversation over the telephone with your brother just preceding the 13th of November?

A. Yes. During the week, the early part of the week.

Q. And was that an occasion when he was trying to reach Mr. Gartenberg.

A. I believe so. [3488]

Q. You informed him that Mr. Gartenberg was at Murrieta, is that right?

A. I might have.

Q. Do you know whether he called Mr. Gartenberg on the telephone at Murrieta?

A. I don't know.

(Testimony of Dora Weinstein.)

Q. You don't know anything about it?

A. No.

Mr. Pratt: That is all.

Mr. Faulkner: That is all.

The Court: Step down.

GORDON C. REID,

called as a witness for the Defendants; sworn.

The Clerk: Q. Will you state your name?

A. Gordon C. Reid, R-e-i-d.

Direct Examination

Mr. Faulkner: Q. Mr. Reid, you are here in response to a subpena—recall that. Your name is Gordon C. Reid? A. That's right.

Q. You are an inspector of the U. S. Department of Agriculture? A. That's right.

Q. You were such in 1944? A. Yes, sir.

Q. You have been requested under this subpena to bring with you the original or copies of any records of the U. S. Department of Agriculture or egg grading certificates issued on or about the following dates relating to eggs sold and delivered from Nye & Nissen to the following ships: SS. John Muir, [3489] approximately dated April 24, 1944. Have you such a certificate?

A. No, sir.

Q. Have you a certificate for the SS. Cape Pillar, dated approximately April 25, 1944?

(Testimony of Gordon C. Reid.)

A. No, sir.

Q. The steamship Josiah Royce, dated approximately April 25, 1944? A. No, sir.

Q. The steamship Cape Charles, dated April 29, 1944? A. No, sir.

Q. The steamship Gilbert Hitchcock, approximately dated May 1, 1944? A. No, sir.

Q. The Henry White, approximately dated May 1, 1944? A. No, sir.

Q. Czechoslovakia Victory, dated approximately May 3, 1944? A. No, sir.

Q. The Phillipa, dated approximately May 3, 1944? A. No, sir.

Q. The Edmund Ross, dated approximately May 5, 1943? A. No, sir.

Q. The William A. Coulter, dated approximately May 8, 1944? A. No, sir.

Q. The Francis W. Parker, dated approximately May 9, 1944? A. No, sir.

Q. The Cape Cumberland dated approximately May 10, 1944? A. No, sir.

Q. The Cape Breton dated approximately May 10, 1944? A. No, sir.

Q. The Mission San Diego, dated approximately May 10, 1944? A. No, sir.

Q. The Heber M. Creel, dated approximately May 12, 1944? A. No. [3490]

Q. The Hawaiian Shipper, dated approximately December 5, 1944? A. I have that one.

Mr. Faulkner: May the one produced be marked for identification, your Honor?

(Testimony of Gordon C. Reid.)

(The document was marked Defendant's Exhibit DJ for Identification.)

Mr. Faulkner: Q. The James Oliver, dated on or about December 23, 1944? A. No.

Q. Have you made a search for those certificates, Mr. Reid?

A. Those certificates have been subpenaed from our files.

Q. They have been subpenaed? A. Yes.

Q. By whom?

A. By the Federal Bureau of Investigation.

Q. In other words, you made an examination of your files for these certificates and find none in your files? A. Yes.

Q. But those that you were requested to bring by the defendants' subpena had already been subpenaed by the Department of Justice?

A. That's right, sir.

Mr. Faulkner: I will try to get these in a little better order, your Honor.

Mr. Pratt: May I inquire what was the last exhibit that was marked for identification, the numbering?

The Clerk: DJ.

Mr. Faulkner: I think it will take too much time to try to follow these the way we have been doing in other parts of the trial. [3491]

Q. I will show you a document, Mr. Reid, Defendants' Exhibit AA, and ask you if that is a counterpart of an egg grading certificate which at one time was a part of the files of the United States

(Testimony of Gordon C. Reid.)

Department of Agriculture, either that or the original? A. That's right.

Q. Is that correct? A. Yes, sir.

Q. Do you recognize that as an egg grading certificate issued in the regular course of business by you as an inspector of the U. S. Department of Agriculture? A. That's right.

Q. In respect to the certificate, Mr. Reid—may I see it? It is Defendants' Exhibit AA. In respect to that certificate, what does that certificate represent or purport to be?

A. That represents 48 cases of eggs which were offered to me for an inspection and were graded, and the percentage of the eggs found as so stated, and that the cases were stamped with the date of grading.

Q. What ship is indicated in that certificate?

A. This was the SS. John Muir.

Q. What quantity of eggs? A. 48 cases.

Q. What was the inspection—what does the certificate show the quality of the eggs to be?

A. U. S. Grade AA Mediums.

Q. To whom was that certificate given after it is prepared by you?

A. Well, it goes to—in this case it went to the Alaska Packers Association.

Q. Now, I show you a certificate marked Defendants' Exhibit [3492] AN in evidence and ask you if that is an egg grading certificate, an original officially issued by the Department of Agriculture on or about the day that it bears.

(Testimony of Gordon C. Reid.)

A. This is an original.

Q. Do you recognize it as an original egg grading certificate made by you? A. Yes, sir.

Q. For what ship is that an egg grading certificate? A. SS. Cape Cumberland.

Q. To whom was the certificate given?

A. To the Moore-McCormack Line.

Q. What was the quantity of eggs covered by the certificate? A. 15 cases.

Q. What was the quality of the eggs that were certified, according to that certificate?

A. U. S. Grade AA, Medium.

Q. I show you what purports to be a copy of an egg grading certificate marked Defendants' Exhibit AO, and I will ask you if you recognize that to be an official copy of an egg grading certificate of the Department of Agriculture, issued on or about the day it bears? A. Yes, sir.

Q. In respect to the two that I have just shown you, Defendants' AA and Defendants' AN, the person who issued the certificate or signed the certificate was Gordon C. Reid? A. Correct.

Q. You are that Gordon C. Reid?

A. Yes.

Q. The one that you have in your hand, that is likewise Gordon C. Reid? A. Yes. [3493]

Q. In respect to the particular one you hold in your hand, what is that exhibit number?

A. AO.

Q. In respect to AV, to whom was that certificate delivered?

(Testimony of Gordon C. Reid.)

A. It was issued to the Alaska Transportation Company for the SS. Gilbert Hitchcock.

Q. What quantity of eggs? A. 55 cases.

Q. What was the quality of the eggs?

A. U. S. Grade AA Medium.

Q. Now, Mr. Reid, I show you a certificate, Defendants' Exhibit AP, and ask if that is an original egg grading certificate, an official egg grading certificate issued by the Department of Agriculture on or about the day that it bears date.

A. It is an original.

Q. Are you the Gordon C. Reid who made the certificate? A. Yes.

Q. To whom was it issued?

A. The Alaska Transportation Company, SS. James Oliver.

Q. What quantity of eggs does the certificate show? A. 8 cases.

Q. What was the grade of eggs as certified by you? A. U. S. Grade AA, Medium.

Q. I show you an egg grading certificate, Defendants' Exhibit AQ, and ask you if that is a copy of an official egg grading certificate issued by the Department of Agriculture on or about the day that it bears date.

A. That's right, it is a copy. [3494]

Q. Are you the person who made the inspection reflected in that certificate? A. Yes.

Q. To whom was it issued?

A. The American Hawaiian Steamship Company for the Czechoslovakia Victory.

(Testimony of Gordon C. Reid.)

Q. What quantity of eggs are covered by the certificate? A. 25 cases.

Q. What was the quality?

Mr. Pratt: How many?

The Witness: 25 cases.

Mr. Faulkner: Q. What was the quality of the eggs as certified by the certificate?

A. U. S. Grade AA, Mediums.

Q. Now, Mr. Reid, I show you a certificate, Defendants' Exhibit AU, and I will ask you if that exhibit is a carbon copy of an official egg grading certificate issued by the Department of Agriculture on the day that it bears date.

A. It is a copy.

Q. To whom was it issued?

A. The General Steamship Company, SS. Josiah Royce.

Q. What quantity of eggs were covered by that certificate? A. 60 cases.

Q. What quality of eggs are certified to by that certificate? A. U. S. Grade AA, Mediums.

Q. I show you Defendants' Exhibit AX, and ask you if you will examine that. Do you recognize that as an original egg grading certificate issued by the Department of Agriculture [3495] also on the day that it bears date?

A. This is an original.

Q. That is what I say, an original. Are you the Gordon C. Reid who is the person named in that certificate? A. I am.

(Testimony of Gordon C. Reid.)

Q. Did you make the examination and certification referred to in that certificate? A. Yes.

Q. To who was it issued?

A. To the Hammond Shipping Company, SS. William Coulter.

Q. What quantity of eggs were involved in that certificate? A. 40.

Q. What quality of eggs is certified to in that certificate?

A. U. S. Grade AA Mediums.

Q. I show you this certificate, Mr. Reid, which is AV, and ask you if that is a copy of an official egg grading certificate issued by the Department of Agriculture on or about the day that it bears date.

A. It is a copy.

Q. To whom was it issued?

A. To the Olympic Steamship Company, SS. Edmund Ross.

Q. What quantity of eggs are covered by that certificate? A. 50 cases.

Q. What quality of eggs are certified to by that certificate? A. U. S. Grade A Mediums.

Q. Are you the Gordon C. Reid whose name appears on that certificate? A. I am.

Q. Are you the person who issued the certificate after making an examination of the eggs covered by it? A. I am. [3496]

Q. Now, Mr. Reid, I show you Defendants' Exhibit AW, and ask you to look at that. It is a carbon copy of an official egg grading certificate

(Testimony of Gordon C. Reid.)

issued by the Department of Agriculture on or about the date it bears? A. It is.

Q. To whom was it issued?

A. The Olympic Steamship Company, Heber M. Creel.

Q. What quantity of eggs is covered by the certificate? A. 50.

Q. What grade of eggs is certified to under the certificate? A. U. S. Grade A, Mediums.

Q. I show you Defendants' Exhibit V and ask you to look at that certificate. Is that an official copy of an egg grading certificate issued by the Department of Agriculture on or about the date that it bears? A. It is.

Q. Are you the Gordon C. Reid whose name appears on that certificate? A. I am.

Q. To whom was the certificate issued?

A. To the Interocean Steamship Company, SS. Cape Chalmers.

Q. In respect to that certificate, what quantity of eggs is covered? A. 36 cases.

Q. What was the grade you certified to, according to the certificate?

A. U. S. Grade AA, Mediums.

Q. I show you, Mr. Reid, Defendants' Exhibit Y-1, I guess it is, and ask you to look at that. Do you recognize that as an original egg grading certificate issued by the Department of [3497] Agriculture on or about the date that it bears?

A. That's right.

Q. Do you recognize that, Mr. Reid, as a certifi-

(Testimony of Gordon C. Reid.)

cate in which you participated in the preparation of? A. Yes.

Q. You are the Gordon C. Reid mentioned on that certificate? A. Yes.

Q. To whom was the certificate issued?

A. To the Matson Navigation Company, steamship Hawaiian Shipper.

Q. What quantity of eggs is covered by that certificate? A. 289.

Q. Will you turn to the next exhibit. What is the number of that? A. Y.

Q. Do you recognize that certificate Y, Exhibit Y? What is the grade of the eggs that were certified to in that certificate you just looked at?

A. U. S. Grade A Large.

Q. U. S. Grade A Large. What quantity—I think you gave that. A. 289.

Q. That second certificate, Mr. Reid, do you recognize that as an official certificate issued by the Department of Agriculture, an egg grading certificate? A. Yes.

Q. To whom was it issued?

A. Matson Navigation Company.

Q. For what ship?

A. SS. Hawaiian Shipper.

Q. What quantity of eggs was covered by that certificate? A. 289 cases.

Q. What is the grade of the eggs covered by that certificate?

A. U. S. Grade A, Large. [3498]

(Testimony of Gordon C. Reid.)

Q. U. S. Grade A, Large. Mr. Reid, maybe I am wrong. Are there two original certificates?

A. Two different certificates are here.

Q. For 289 cases?

A. No, just one for that.

Q. Is one a counterpart of another?

A. No.

Q. The first one is Exhibit Y-1, that was for 289 cases Grade A Large for the Matson Navigation Company, Hawaiian Shipper. Now, the next one—will your Honor indulge me a moment? One of these appears to be a shipment that does not arise in this case, if your Honor please, and there is no use taking time on that.

The Court: The jurors may take a recess.

(Recess.) [3499]

Mr. Faulkner: Q. Mr. Reid, in respect to the Hawaiian Shipper, the first exhibit which I showed you is dated December 4, 1944—December 5, 1944, Defendants' Exhibit Y-1 for Identification, and you stated that that certificate covered 289 cases of Grade A Large eggs. Is Exhibit X a counterpart of Exhibit Y-1? A. Yes, it is.

Q. Mr. Reid, will you look at the certificate, which you did not make? There is a certificate there, Defendants' Exhibit Y for Identification. I will merely ask you this: Do you recognize this as an official egg grading certificate issued by the Department of Agriculture? A. I do.

Q. For what ship?

A. For the SS. Hawaiian Shipper.

(Testimony of Gordon C. Reid.)

Q. And for what company?

A. Matson Navigation Company.

Q. In what quantity?

A. Four hundred cases.

Q. You have produced in court here this afternoon this green certificate, and I will ask you if that certificate, which bears the mark now DF for Identification, if you recognize that as an official copy of an egg grading certificate issued by the Department of Agriculture on or about the date that it bears? A. I do.

Q. What is the date of that certificate?

A. December 5, 1944.

Q. To whom was it issued?

A. It was issued to Nye & Nissen.

Q. I mean is that issued to a ship?

A. This is issued to Nye & Nissen; the receiver or buyer is the Matson Navigation [3500] Company.

Q. That is what I mean. Does it relate to the Hawaiian Shipper? A. It does.

Q. Is it for 111 cases? A. It is.

Q. Will you look at the exhibit that covers the 289 cases and the one that you hold in your hand that covers 111 cases and the dates of those two certificates, and I will ask you if the two certificates do not represent an inspection of 400 cases of eggs for the Hawaiian Shipper made on or about December 4 and 5, 1944? A. They do.

Q. Is that correct? A. That is right.

Q. Is the green one that you have in your hand an inspection that was made by you?

(Testimony of Gordon C. Reid.)

A. It is.

Q. Do you recall where the inspections were made of the eggs that are covered by those two certificates?

A. They were made at Nye & Nissen's plant. When?

Q. No. On Missouri Stret?

A. 1301 Seventeenth Street.

Q. There is an exhibit marked here already Defendants' Exhibit XY for Identification. I will ask you if that is a counterpart of DJ for Identification offered this afternoon?

A. It is a copy.

Mr. Faulkner: We have a situation, your Honor, where there are two exhibit, each a counterpart of the other. I will just pick one of each to be introduced in evidence. We offer in evidence Defendants' Exhibit No. XY for Identifcation.

The Court: It may be admitted and marked.

Mr. Faulkner: We offer in evidence, if the Court please, Defendants' Exhibit X-1 for Identification.

The Court: It may be admitted and marked.

Mr. Faulkner: And the other one related to September. We will merely leave it marked for identification until we know exactly what it relates to.

(Defendants Exhibit X-1 and Y-1 were thereupon received in evidence.)

Mr. Faulkner: At this time, if the Court please, I will ask the Government to produce all records

(Testimony of Gordon C. Reid.)

of inspections of eggs made by the United States Army for December 1 to December 10, 1944.

Mr. Pratt: We have no such records. It is my information that search has been made unsuccessfully to secure them.

Mr. Faulkner: You will recall that this is the incident, Mr. Pratt, where the eggs were inspected by the Department of Agriculture and we have here the certificate of the Department of Agriculture, and the testimony is that they were likewise inspected by the United States Army and that the cases bore an inspection stamp of the United States Veterinary Corps.

Mr. Pratt: Which cases are you referring to? Which steamship?

Mr. Faulkner: The Hawaiian Shipper.

Mr. Pratt: I repeat that we have no such records of Army [3502] inspection. A search has been made for them and they have not been found.

Mr. Faulkner: Will you give me the name of the person who has custody of those records, custody of the records of Army inspections in the month of December, 1944?

Mr. Pratt: I can't answer that now, but I will make an effort to find out and let Mr. Faulkner know.

Mr. Faulkner: Thank you very much.

Q. Mr. Reid, there has been a series of egg grading certificates shown to you up to this point in your examination and each one of those certificates was issued to a shipping company, was it not?

(Testimony of Gordon C. Reid.)

A. With one exception.

Q. What was that?

A. There was one issued on the Hawaiian Shipper to Nye & Nissen.

Q. That is the last one?

A. The last one.

Q. And those were not issued to the shipper, is that right? A. That is right.

Q. Other than the Hawaiian Shipper, and in respect to the egg grading certificates issued to the ships that I have referred to in the direct examination, each one of those was issued to the shipping company, am I correct in that?

A. That is right.

Q. And the shipping companies paid the Department of Agriculture a fee for those services, is that correct? A. That is right. [3503]

Q. No counterpart, neither the original nor any copy of certificates issued by your department to the shipping company are transmitted to the firm of Nye & Nissen, are they?

A. That is right.

Mr. Pratt: May I interrupt to say that Colonel Hand advises that Major Decker of the Quartermaster Market Depot at Oakland, California, is the proper custodian of the records requested by Mr. Faulkner.

Mr. Faulkner: Q. The Shipping companies paid the Department of Agriculture a fee in respect to these various certificates, am I correct in that?

A. That is correct.

(Testimony of Gordon C. Reid.)

Q. I will show you a book, Defendants' Exhibit CX-1, and ask you if you have ever seen that book before? A. I have.

Q. Where did you see it?

A. This was in Mr. Berman's office at Nye & Nissen's.

Q. Mr. Reid, I will ask you to look at the initials G.C.R. on that book and ask you if they are in your handwriting? A. Yes, they are.

Q. In the months of April and May of 1944, Mr. Reid, do you know whether you made a special inspection of each of the orders for eggs covered in these exhibits other than the Hawaiian Shipper, which we have just referred to in your direct examination? Do you know?

A. I don't understand.

Q. In other words, there is a series of exhibits here, calling for 15 cases for the Cape Cumberland, 48 cases for the [3504] John Muir, 55 cases for the Gilbert Hitchcock, and so forth. Did you make a special inspection of the 15 cases of eggs for the Cape Cumberland, or do you know?

A. Well, there could have been several ships combined and the agent looked at them in one lot for several ships.

Q. Mr. Reid, there has been evidence introduced in this case that certain eggs bearing a Department of Agriculture stamp dated April 18, 1944, were observed on the waterfront. I will show you in that connection this document and ask you if that is an egg grading certificate issued by you in the

(Testimony of Gordon C. Reid.)

regular course of your business. Withdraw that. I will ask you if this is an original official egg grading certificate issued by the Department of Agriculture? A. It is.

Q. Did you make the inspection covered by that certificate? A. I did.

Q. What is the date of the inspection?

A. April 18, 1944.

Q. And what is the quantity of eggs covered under that certificate?

A. Three hundred and thirteen.

Q. Two hundred and sixteen cases?

A. Three hundred and thirteen.

Mr. Pratt: How many?

The Court: Three hundred and thirteen.

Mr. Faulkner: Q. And what quality of eggs did you find according to that inspection?

A. U. S. Grade AA Medium.

Q. Now, that paper, which I will ask to be marked for [3505] identification——

The Court: It may be admitted and marked.

Mr. Faulkner: I will offer it in evidence, your Honor, and that will have two transactions.

The Court: It may be admitted and marked.

(The certificate in question was thereupon received in evidence and marked Defendants' Exhibit DK.)

Mr. Faulkner: Q. Mr. Reid, by reference to Defendants' DK, I will ask you where you inspected the eggs covered in that certificate.

Mr. Pratt: May I see the certificate?

(Testimony of Gordon C. Reid.)

The Witness: These were looked at at Nye & Nissen's.

Mr. Faulkner: Q. Pardon me?

A. At Nye & Nissen's.

Q. What date? A. April 18, 1944.

Q. To whom was that certificate which you hold in your hand issued?

A. It is issued to Nye & Nissen.

Q. Who paid the Department of Agriculture for that inspection? A. Nye & Nissen.

Q. And the quantity of eggs covered by that is 313 cases, is that correct?

A. That is right.

Q. On an inspection of that type, Mr. Reid, when the inspection is completed, it was your practice, was it not, to stamp the quantity of eggs that were inspected with a Department of Agriculture stamp?

A. Yes, they were stamped at the [3596] request of the applicant.

Q. And that stamp would bear the date, would it not? A. That is right, sir.

Q. What is the quality of eggs covered?

A. U. S. Grade AA Medium.

Mr. Pratt: Is that the same DK you are talking about? Are you still talking about DK?

Mr. Faulkner: The same one, yes.

Q. I will show you an egg grading certificate purporting to be dated April 29, 1944, and ask you to examine that. Is that an original official egg

(Testimony of Gordon C. Reid.)

grading certificate issued by the Department of Agriculture on or about April 29, 1944?

A. It is.

Q. What quantity of eggs is covered by that certificate?

A. One hundred and fifty cases.

Q. And what quality?

A. U. S. Grade AA Medium.

Q. And where did the inspection occur?

A. At Nye & Nissen's.

Q. Who made the inspection? A. I did.

Mr. Faulkner: I offer that in evidence, your Honor.

The Court: It may be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit DL.)

Mr. Faulkner: Q. At the time you inspected these 313 cases of eggs, Mr. Reid, covered by Certificate dated April 18, 1944, U. S. Grade AA Medium, and at the time you inspected [3507] the eggs covered by the certificate dated April 29, 1944, in an amount of 150 cases, U. S. Grade AA Medium, there isn't any question, is there, Mr. Reid, that when that inspection was completed, as evidenced by both of those certificates, that as part of that transaction you stamped as inspected 313 cases of eggs on one occasion and 150 cases of eggs on the other? A. That is right.

Mr. Pratt: What was the number of the exhibit dated April 29?

Mr. Faulkner: DL.

(Testimony of Gordon C. Reid.)

Q. Now, Mr. Reid, I show you a document dated May 3, 1944, and ask you if that is an official original egg grading certificate issued by the Department of Agriculture on or about the date that it bears? A. It is.

Q. Are you the inspector who made that inspection? A. Yes, sir.

Q. And what was the date of the inspection?

A. May 3, 1944.

Q. And where were the eggs inspected?

A. Nye & Nissen.

Q. How many cases are involved?

A. One hundred and eighty.

Q. One hundred and eighty?

A. That is right.

Q. And what was the grade?

A. U. S. Grade A Medium.

Q. At the time you graded the 180 cases, Mr. Reid, is there any question but that as part of that inspection the eggs were inspected and the cases in which the eggs were contained were stamped with a Department of Agriculture stamp?

A. That is right.

Mr. Faulkner: I offer that in evidence, your Honor, as Defendants' Exhibit next in order.

The Court: It may be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit DM.)

Mr. Faulkner: Q. I show you this document, Mr. Reid, and ask you if you can identify it as an original official record of an inspection of eggs is-

(Testimony of Gordon C. Reid.)

sued by the United States Department of Agriculture? A. It is.

Q. What quantity of eggs are involved?

A. One hundred and eighty-six cases.

Q. And what is the grade of the eggs?

A. U. S. Grade AA Medium.

Q. And what is the date of the certificate?

A. April 24, 1944.

Q. You were not the inspector in that case?

A. No, sir.

Q. You do not know whether you participated in that inspection or not? A. No, I do not.

Mr. Faulkner: I offer this in evidence, if the Court please.

The Court: It may be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit 19-N.)

Mr. Faulkner: Q. I show you a document and ask you if that is an orignal egg grading certificate issued by the Department of Agriculture on or about the date that it bears?

A. It is an original.

Q. Did you make the inspection covered by that certificate? A. I did.

Q. What was the quantity of eggs inspected?

A. Two hundred and fifty-six cases.

Q. What was the quality of the eggs?

A. U. S. Grade AA Medium.

Q. Where were the eggs inspected?

A. At Nye & Nissen's.

Q. At their plant on 17th Street?

(Testimony of Gordon C. Reid.)

A. That is right.

Q. Each of these certificates which I have shown to you before, all of which start in the month of April, 1944, shows an inspection in the plant of Nye & Nissen, is that correct?

A. That is right.

Q. And that is their plant at 1301 Seventeenth Street? A. That is right.

Q. With respect to the 256 cases of U. S. Grade AA Mediums inspected by you on May 2, 1944, is there any question but that you have affixed your stamp, the Department of Agriculture stamp, on 256 cases of eggs? A. That is right.

Q. And that stamp, in respect to this inspection and every one that was made, covered by these certificates which I have shown you, each of them bore the grade that your found to be in the lot of eggs, is that correct? A. That is right.

Mr. Faulkner: I offer that in evidence, your Honor, and ask that it be marked Defendants' Exhibit next in order. [3510]

The Court: It may be admitted and marked.

(The document was thereupon received in evidence and marked Defendants' Exhibit D6.)

Mr. Faulkner: Q. I show you a document No. 62805 and ask you if that is an original of an official egg grading certificate issued by the Department of Agriculture on or about the date that it bears? A. It is an original.

Q. What was the quantity of eggs covered in that certificate?